

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7770

Amended Joint Petition of Central Vermont Public Service )  
Corporation ("CVPS"), Danaus Vermont Corp., Gaz Métro )  
Limited Partnership ("Gaz Metro"), Gaz Métro inc., Northern )  
New England Energy Corporation ("NNEEC") for itself and as )  
agent for Gaz Métro's parents, Green Mountain Power )  
Corporation ("GMP") and Vermont Low Income Trust for )  
Electricity, Inc. ("VLITE"), for approval of: (1) the merger of )  
Danaus into and with CVPS; (2) the acquisition by NNEEC of )  
the common stock of CVPS; (3) the amendment to CVPS's )  
Articles of Association; (4) the merger of CVPS into and with )  
GMP; and (5) the acquisition by VLITE of a controlling )  
interest in Vermont Electric Power Company, Inc. )

Order entered: 11/14/2011

**PROCEDURAL ORDER RE MOTION TO APPOINT INDEPENDENT COUNSEL**

Vincent Illuzzi and 45 other Vermont residents and ratepayers ("Group of 46 Ratepayers") filed with the Public Service Board ("Board") on October 17, 2011, a petition requesting that the Board appoint an independent counsel to represent the public interest in this proceeding. This petition accompanied a motion to intervene filed by the Group of 46 Ratepayers. In its November 1 Order granting the intervention motions of the Group of 46 Ratepayers and others, the Board indicated that it would treat the petition as a motion filed by a party and set a deadline for any additional responses.

On November 7, 2011, Mr. Illuzzi submitted a letter to the Board in which he stated that he concurred with the position of the Vermont Department of Public Service ("Department") set forth in its surreply filed with the Board on November 7 and requested that "the Board hold off on ruling on my Petition to Appoint Independent Counsel until the Department has articulated its proposal in response to [the] Amended Joint Petition" filed by the petitioners in this docket.

The Board has now received four filings from Mr. Illuzzi related to the motion, two responses from the Department, and one response from the Petitioners as well as responses from two other parties. Mr. Illuzzi proposes that the Board now wait to rule on the motion, essentially staying the ruling, until after the Department sets out its own proposals in response to the

Amended Joint Petition (presumably when it files direct testimony setting forth its position).

From a procedural perspective, it is unusual for a ruling on a motion to be stayed at the request of the original movant and then to have the same motion reconsidered at a later point in the proceeding. Instead of staying a ruling on the existing motion, practical considerations lead us to conclude that it would be more appropriate for the Group of 46 Ratepayers to file at the appropriate time a new motion to appoint independent counsel, if they still believe such a request is warranted. These considerations include the potential staleness of the existing motion and other filings related to the motion due to future developments and the need to provide other parties in the docket a new opportunity to respond. For example, one would expect that the basis for the motion to appoint independent counsel would change, at least somewhat, after taking into account the specifics of the Department's position on the proposed acquisitions and mergers.

Given these practical considerations and the need for procedural clarity, we will treat Mr. Illuzzi's letter of November 7 as an implicit withdrawal without prejudice of the motion to appoint independent counsel. The Group of 46 Ratepayers may file a new motion requesting the Board appoint independent counsel once the Group of 46 Ratepayers has had an opportunity to review the Department's position on the proposed acquisitions and mergers or at another time of their choosing.

**SO ORDERED.**

Dated at Montpelier, Vermont, this 14<sup>th</sup> day of November, 2011.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: November 14, 2011

ATTEST: s/Susan M. Hudson  
Clerk of the Board

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